

United States District Court
Southern District of New York

Elza E. Almeida,

Plaintiff

v.

Carlos Aguinaga & Christina Aguinaga
Bueno,

Defendant.

06 Civ. 3923 (LLS) ECF Case
(GR 0534)

**Defendants' Rule 56.1 Statement
of Material Facts**

Pursuant to Local Rule 56.1 of the Civil Rules of this Court, defendants set forth the following material facts as to which it contends there exists no genuine issues to be tried:

1. Plaintiff was paid \$95 per day from prior to December 7, 2002 through December 31, 2002.(Declaration of Christina Aguinaga, ¶7).
2. Plaintiff was paid \$100 per day in all of 2003 and 2004 (*id*).
3. Plaintiff was paid \$105 per day in 2005 (*id*).
4. The federal and New York State minimum wage was \$5.15 per hour from prior to December 7, 2002 through December 31, 2004. (29 U.S.C. §206; 12 NYCRR §142-2.1)
5. The federal minimum wage was \$5.15 per hour and the New York State minimum wage was \$6.00 per hour from January 1, 2005 through December 6, 2005 (*id*).
6. Plaintiff was employed by defendant Christina Aguinaga from approximately November 14, 1990 to December 6, 2005. (Amended Complaint, ¶10; Aguinaga Declaration, ¶1).
7. Plaintiff resided in defendants' household at all times material to this case. (Amended Complaint, ¶¶20,27 & 28; Aguinaga Declaration, ¶1,5).
8. Plaintiff has refused to complete IRS Form W-9 and submit it to defendants or their counsel, or otherwise provide defendants with her social security number (Declaration of Gerald E. Ross and exhibits thereto).

9. Plaintiff has been a documented resident alien in the United States since in or about 1995 or 1996.
10. Plaintiff was not employed by defendants under an H-1B visa.
11. At all times that she was employed by defendants, there was one other domestic employee who resided in defendants' household. (Amended Complaint, ¶28; Aguinaga Declaration, ¶5).
12. Plaintiff worked five days per week. (Amended Complaint, ¶18; Aguinaga Declaration, ¶6).

Dated:

New York, New York
July 21, 2006

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By, *s/Gerald E. Ross*
Gerald E. Ross (GR 0534)

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